

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EDWARD EUGENE CADE,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

§
§
§
§
§
§
§
§
§

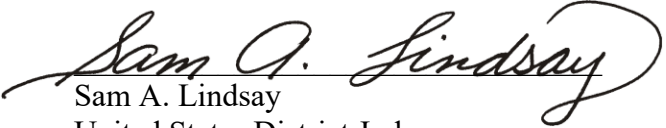
Civil Action No. **3:09-CV-1388-L**
(Criminal Action No. 3:05-CR-139-L)

ORDER

On August 3, 2020, United States Magistrate Judge Rebecca Rutherford entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 28), recommending that Movant Edward Eugene Cade’s (“Movant”) *pro se* motion for relief from judgment under Federal Rule of Civil Procedure 60 (Docs. 23 & 25) be construed as a successive motion to vacate, set-aside, or correct his sentence under 28 U.S.C. § 2255 and transferred to the United States Court of Appeals for the Fifth Circuit. No objections to the Report were filed.

When a post-conviction motion is deemed successive, the district court lacks subject matter jurisdiction unless a panel of Fifth Circuit judges allows the successive motion to proceed. After reviewing the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the Magistrate Judge are correct, and **accepts** them as those of the court. Accordingly, the court construes Movant’s Rule 60 motion (Docs. 23 & 25) as a successive motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. The court, therefore, lacks subject matter jurisdiction to entertain this action and **directs** the clerk of court to **transfer** the action to the United States Court of Appeals for the Fifth Circuit for determination.

It is so ordered this 27th day of August, 2020.


Sam A. Lindsay
United States District Judge